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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,073	07/19/2006	Andreas Orth	4791-4008	2660
27123	7590	01/26/2009		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER SINGH, PREM C	
			ART UNIT 1797	PAPER NUMBER
			NOTIFICATION DATE 01/26/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/540,073	Applicant(s) ORTH ET AL.	
	Examiner PREM C. SINGH	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/22/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Amendment to claims 1, 7, 8, 13-15, and 18 and addition of new claim 20 is noted.
2. Objection to specification is withdrawn.
3. New grounds of rejection necessitated by amendment to the claims and addition of new claim follow.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-10 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beisswenger et al (US Patent 4,716,856) in view of Lapple et al (US Patent 3,578,798).

6. With respect to claims 1-4, Beisswenger discloses a method of producing solids (should necessarily be comprising low temperature coke) (See column 8, lines 20-21) in which granular coal is heated to a temperature of 400 to 1200°C in a fluidized bed reactor (See column 2, lines 30-34; column 4, lines 37-39) by an oxygen-containing gas comprising introducing from below a first gas or gas mixture through at least one gas supply tube into a mixing chamber of the fluidized bed reactor (See figure 1 and column 2, lines 33-34; column 5, lines 30-32). Beisswenger further discloses that when particle Froude number is used to define the operating conditions, the following ranges can be determined (See column 2, lines 48-50):

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$$0.1 \leq \left(\frac{3}{4}\right) (Fr)^2 (\rho_g / [\rho_k - \rho_g]) \leq 10 \quad (\text{See column 2, lines 51-69}).$$

Beisswenger invention does not specifically disclose the gas supply tube surrounded by a stationary annular fluidized bed.

Lapple discloses an improvement in a fluidized bed reactor by providing a central tube which leads upwardly through the fluidized bed into the freeboard space above the normal level of the fluidized bed (See column 1, lines 22-29). Lapple also discloses that this arrangement causes increased capability for reaction or heat transfer effects in the fluidized bed (See column 1, lines 35-44).

Thus, it would have been obvious to one skilled in the art at the time of invention to modify Beisswenger invention and improve the design of the reactor by an arrangement as disclosed by Lapple for an enhanced reaction rate and heat transfer.

It is to be noted that Beisswenger invention gives a range of Froude number to define the "operating conditions" (See column 2, line 49). Obviously, the range should necessarily be applicable in the gas supply tube, stationary annular fluidized bed (formed due to the modification in the apparatus according to Lapple's disclosure) and in the mixing chamber, as claimed.

7. With respect to claim 5, Beisswenger discloses that solids are discharged from the fluidized bed reactor and separated in a separator and a part of the solids is recirculated to the stationary fluidized bed (See column 3, lines 6-10; column 7, lines 60-62; column 11, lines 22-26).

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8. With respect to claim 6, Beisswenger discloses that amount of product stream recirculated to the stationary annular fluidized bed is controlled (See column 7, lines 34-40). Although Beisswenger invention does not specifically disclose control by difference in pressure, it would have been obvious to one skilled in the art to use any suitable method to control the amount of solids, including the pressure differential above the mixing chamber, as claimed.

9. With respect to claims 7 and 8, Beisswenger discloses that coal particles (lignite) less than 3/8 inch (9.5 mm) are used in the fluidized bed reactor as a starting material (See column 11, lines 5-10). Lignite is known to those skilled in the art as a highly volatile coal.

10. With respect to claims 9 and 10, Beisswenger discloses that the fluidizing gas supplied to the fluidized bed reactor is an oxygen-rich air supplied under superatmospheric pressure, preferably up to 20 kg/cm² above atmospheric pressure (See column 6, lines 27-33).

11. With respect to claims 14-16 and 20, Beisswenger discloses a plant for producing solids (should necessarily be comprising low temperature coke) (See column 8, lines 20-21) by the method as discussed under claim 1, comprising a fluidized bed reactor with a gas supply tube, wherein the gas supply tube entrains solids from a fluidized bed (See figure 1 and column 12, lines 29-56).

Beisswenger invention does not specifically disclose an annular fluidized bed which surrounds the gas supply tube.

Lapple discloses an improved fluidized bed reactor by providing a central tube which leads upwardly through the fluidized bed into the freeboard space above the normal level of the fluidized bed (See column 1, lines 22-29). Lapple also discloses that this arrangement causes increased capability for reaction or heat transfer effects in the fluidized bed (See column 1, lines 35-44).

Thus, it would have been obvious to one skilled in the art at the time of invention to modify Beisswenger invention and improve the plant design by a central tube arrangement as disclosed by Lapple for an enhanced reaction rate and heat transfer. This arrangement will provide an annular fluidized bed surrounding the gas supply tube, wherein the gas supply tube is centrally located with reference to the cross sectional area of the fluidized bed reactor (See Beisswenger: figure 1 and Lapple: figure 1) and wherein the gas flowing through the gas supply tube entrains solids from the stationary annular fluidized bed into the mixing chamber when passing through the upper nozzle region of the gas supply tube (See See Beisswenger: figure 1; column 7, lines 17-20, 24-26; column 12, lines 29-56 and Lapple: figure 1). It is to be noted that Beisswenger uses a nozzle which is functionally similar to the claimed orifice region.

12. With respect to claim 17, Beisswenger discloses a separator (20, 24) downstream of the fluidized bed reactor of the plant for separating solids which has a solids return conduit (28) leading to the fluidized bed reactor (18) (See figure 1).

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13. With respect to claim 18, Lapple discloses that in the annular chamber (16) of the fluidized bed reactor (10) a gas distributor (31) is provided which divides the annular chamber into an upper fluidized bed region (17) and a lower gas distribution chamber (30) and the gas distributor chamber is connected with a supply conduit (32) for fluidizing gas (See figure 1).

14. With respect to claim 19, Beisswenger discloses, "An air preheater can also be employed to partially recover the heat contained in the flue gas" (Column 7, lines 57-59). Obviously, Beisswenger is suggesting to use a heat preheater (upstream of the fluidized bed reactor). Thus, it would have been obvious to one skilled in the art at the time of invention to modify Beisswenger invention by using a heat exchanger upstream of the fluidized bed reactor to preheat the fluidizing air by hot flue gases and make the plant more economical. It is also to be noted that flue gases contain some fine coal particles not separated in the cyclone separator (20, 24) (See column 7, lines 51-57). Thus, it would have been obvious to one skilled in the art at the time of invention to modify Beisswenger invention by using a separator to further clean the flue gas coming out from the heat exchanger before exhausting to atmosphere.

15. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beisswenger et al (US Patent 4,716,856) in view of Lapple et al (US Patent 3,578,798) and further in view of Bresser et al (US Patent 5,560,762).

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16. With respect to claims 11-13, Beisswenger discloses use of all kinds of coal, washery refuse, various industrial residues, wood wastes and municipal refuse (See column 6, lines 39-43), however, the invention does not specifically disclose use of iron ore.

Bresser discloses a process of heat treatment of iron ore in granular form in a fluidized bed reactor under temperature and pressure conditions similar to Beisswenger invention (See column 1, lines 34-50; column 2, lines 15-49; column 7, lines 5-21). Bresser also discloses that particle Froude number for the process is also in a range similar to Beisswenger (See column 3, lines 1-24). Bresser further discloses that all coals, carbon containing minerals, washery refuse etc. may be used as carbon containing material (See column 7, lines 5-8).

Thus, it would have been obvious to one skilled in the art at the time of invention to modify Beisswenger invention and blend iron ore with the coal feed in the fluidized bed reactor and produce coke as well as heat treated iron ore in the same plant and make the process more flexible and useful. It would also have been obvious to specify the weight ratio of iron to carbon in the product for proper characterization of the products produced in the fluidized bed reactor.

Response to Arguments

17. Applicant's arguments filed 11/20/2008 have been fully considered but they are not persuasive.

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18. In the arguments on page 10 (last 3 lines), page 11 (paragraph 1, 2), the Applicant argues that Beisswenger does not mention any particular Froude number or ranges of numbers anywhere, consequently, there is no teaching, suggestion or motivation in Beisswenger to control the reactor conditions using the particular particle Froude numbers as recited in claim 1.

The Applicant's argument is not persuasive because Beisswenger discloses that when particle Froude number is used to define the operating conditions, the following ranges can be determined (See column 2, lines 48-69). Obviously, Beisswenger is controlling the reactor conditions using the particle Froude number, as claimed.

19. In the arguments on page 11 (last paragraph) and page 12 (paragraph 1), the Applicant argues that although Beisswenger generally discloses that Froude numbers can be used to control operating conditions, the conditions of Beisswenger are circulating fluidized bed conditions. In contrast, claim 1 requires stationary annular fluidized bed reactor. Additionally, Lapple does not teach use of Froude number.

The Applicant's argument is not persuasive because Lapple discloses a stationary annular fluidized bed which is an improvement in a fluidized bed reactor by providing a central tube which leads upwardly through the fluidized bed into the freeboard space above the normal level of the fluidized bed (See column 1, lines 22-29). Lapple also discloses that this arrangement causes increased capability for reaction or heat transfer effects in the fluidized bed (See column 1, lines 35-44). Thus, it would have been obvious to one skilled in the art at the time of invention to modify

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Beisswenger invention and improve the design of the reactor by an arrangement as disclosed by Lapple for an enhanced reaction rate and heat transfer (See Office action above).

20. In the arguments on page 12 (paragraph 2), with respect to claims 11-13, the Applicant argues that Bresser does not cure the deficiencies discussed above regarding claim 1.

The Applicant's argument is not persuasive because claim 1 is obvious over Beisswenger in view of Lapple, as discussed above. Thus, claims 11-13 are also obvious.

21. In the arguments on page 12 (paragraph 3); page 13 (paragraph 1-6) and page 14 (paragraph 1, 2), with respect to claims 14-16 and 20, the Applicant argues that the combination of Beisswenger and Lapple will not result in the invention as recited in claim 14. As described in the instant specification (pg 6, lines 9-19), the modification of Beisswenger by Lapple does not result in a fluidized bed reactor whereby solids are entrained by the gas stream when passing through the upper orifice region of the gas supply tube.

The Applicant's argument is not persuasive because Lapple discloses, "The fluidized bed materials discharged into the tube [14] are entrained by the combustion gases passing upwardly there through and are discharged with the gases into the

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freeboard space [37] in the upper portion of the vessel above the upper end [16] of the tube”(Column 2, lines 48-53).

22. In the arguments on page 14 (last paragraph), with respect to claims 2-13 and 15-19, the Applicant argues that for at least similar reasons as to why claims 1 and 14, from which claims 2-13 and 15-19 depend are allowable.

The Applicant’s argument is not persuasive because as discussed earlier, claims 1 and 14 are obvious over Beisswenger in view of Lapple and Bresser and so are the dependent claims (See Office action above).

23. In conclusion, the claimed invention is *prima facie* obvious over Beisswenger in view of Lapple and Bresser.

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PREM C. SINGH whose telephone number is (571)272-6381. The examiner can normally be reached on 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PS 011609

/Glenn A Caldarola/
Acting SPE of Art Unit 1797

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